

Application No.: 10/725,207

Case No.: 58209US004

Remarks

Claims 1, 2, and 6-37 are pending.

Withdrawal of Rejection

The Applicants acknowledge and appreciate the Patent Office withdrawal of the rejection of claims 1-10, 12-14 under 35 U.S.C. § 102(b) over EP 0829494 (U.S. Patent 5,780,552) to Kerbow.

§ 103 Rejections**Grootaert '927 or Grootaert '880**

Claims 1, 2, 6-11, 13-21, 23-31, and 33-37 stand rejected under 35 USC § 103(a) as being unpatentable over Grootaert et al. U.S. Patent 6,887,927 (hereinafter '927) or Grootaert et al. U.S. Patent 6,846,880 (hereinafter '880).

The Applicants respectfully submit that these rejections are inappropriate and should be withdrawn. The present application was filed December 1, 2003 and claims priority to U.S. provisional Patent Application No. 60/436,181 filed December 23, 2002.

The cited references were filed and published as follows:

'927, filed August 27, 2002; published March 4, 2004 (US 2004/0044139)

'880, filed October 11, 2002; published April 14, 2004 (US 2004/0072959)

Accordingly, Applicants respectfully submit that '927 and '880 would qualify as prior art, if at all, only under 35 U.S.C. § 102(e). Thus, under 35 U.S.C. § 103(c)(1) neither '927 nor '880 is available as a reference for a rejection under 35 U.S.C. § 103(a). (35 U.S.C. § 103(c) states "Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person"). The rejection of claims 1, 2, 6-11, 13-21, 23-31, and 33-37 under 35 USC § 103(a) as being unpatentable over Grootaert '927 or Grootaert '880 is unwarranted and should be withdrawn.

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Grootaert '927 or Grootaert '880 in view of Chen '141

Claims 12, 22, and 32 stand rejected under 35 USC § 103(a) as being unpatentable over Grootaert et al. U.S. Patent 6,887,927 or Grootaert et al. U.S. Patent 6,846,880 as applied to claims 1, 2, 6-11, 13-21, 23-31 and 33-37 above, and further in view of Chen et al. U.S. Patent 6,310,141.

Again, under 35 U.S.C. § 103(c)(1) neither '927 nor '880 is available as a reference for a rejection under 35 U.S.C. § 103(a).

The rejection of claims 12, 22, and 32 under 35 USC § 103(a) as being unpatentable over Grootaert '927 or Grootaert '880 as applied to claims 1, 2, 6-11, 13-21, 23-31 and 33-37 above, and further in view of Chen et al. has been overcome and should be withdrawn.

Applicants respectfully request withdrawal of the rejections to claims 1, 2 and 6-37.

Evidence of Common Ownership

Present Application Number 10/725,207 and U.S. Patents 6,887,927 and 6,846,880 were, at the time the invention of Application Number 10/725,207 was made, subject to an obligation of assignment to the same company.

Conclusion

In view of the above, it is submitted that the application is in condition for allowance. Reconsideration of the application is requested.

Allowance of claims 1, 2, and 6-37 at an early date is respectfully solicited.

Respectfully submitted,

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Date

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